IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIFTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 13326 of 2004

Between:

C.Adinarayana S/o Late C.Venkateswarlu
Gadivemula PACS Gadivemula, Kurnool District

..... PETITIONER

AND

1 The Government of AP. rep. by its Secretary, Cooperation Department Secretariat, Hyderabad
2 The Commissioner for Cooperation & Registrar of Coop. Societies Government of AP. Hyderabad
3 The District Coop. Officer Kurnool., Kurnool District
4 The Deputy Registrar of Coop.Societies, Nandyala, Kurnool District
5 The Gadivemula PACS Gadivemula, Kurnool District
rep. by its President /PIC

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the impugned action of the respondents in contemplating to terminate the services of the petitioner in the guise of implemeting Act. 2/1994 i.e. AP. Ordinace No.11/2003 thereafter Promulgated AP. (Regulation of Appointments to Public Services and Rationalisation of Staff Pattern and Pay Structure) (Amendment) Act 2004 as highly illegal, arbitrary, and violative of Articles 14 and 21 of the constitution of India.

Counsel for the Petitioner:MR.G.V.SHIVAJI

Counsel for the Respondents 1 to 4: GP FOR COOPERATION

The Court made the following :

O R D E R:

The petitioner who worked as Clerk in the 5th respondent Society questions the proceedings, dated 28.06.2004 issued by the 3rd respondent-District Co-operative Officer, Kurnool, directing the 5th respondent Society to terminate the services of the petitioner.

It is the case of the petitioner that the grounds mentioned in the proceedings, dated 28.06.2004 are that the petitioner joined after 25.11.1993 and the appointment of the petitioner is in contravention of A.P. Ordinance No.11 of 2003 i.e., A.P. (Regulation of Appointments to Public Servics & Rationalisation of Staff Pattern and Pay Structure) (Amendment) Ordinance, 2003. It is stated that the provisions of Act 2 of 1994 are not applicable to the case of the petitioner, the termination orders are illegal.

On an earlier occasion, this Court while disposing of W.P.No.3171 of 2004 & batch, 30.08.2004 took a view that if any appointments are made in accordance with the provisions of Section 116-C(1) of the Andhra Pradesh Co-operative Societies Act, such appointments have to be terminated on the ground that those appointments are made in violation of the provisions of Act 2 of 1994. To implement the said mandatory provision, the concerned Societies have to take appropriate action for fixing the staffing pattern, pay and allowances, which shall not exceed 2% of the

working capital or 30% of the gross profit in terms of actuals in a year, whichever is less and in that process, it is open for them either to retrench or remove the surplus employees who are working contrary to the provisions of Section 116-C(1) of the Act.

As the provisions of Act 2 of 1994 are not applicable to the case of the petitioner, the proceedings issued in R.C.No.536 of 2000-C, dated 28.06.2004 are liable to be set aside and are accordingly set aside.

The writ petition is accordingly allowed, keeping it open for the 5th respondent Society to pass appropriate orders in accordance with the provisions of Section 116-C of the Andhra Pradesh Co-operative Societies Act, 1964. No costs.

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V.ESWARAIAH.J

Dt.05.11.2004

tjs

That Rule Nisi has been made absolute.

Witness the Honourable Sri Devinder Gupta, the Chief Justice on

This Fifth day of November, Two Thousand and Four.

ASSISTANT REGISTRAR

To

1 Secretary, Co-operation Department, Government of AP., Secretariat, Hyderabad

2 The Commissioner for Cooperation & Registrar of Coop. Societies Government of AP., Hyderabad
3 The District Coop. Officer Kurnool., Kurnool District
4 The Deputy Registrar of Coop.Societies, Nandyala, Kurnool District
5 President/PIC, Gadivemula PACS Gadivemula, Kurnool District

6 2CCs to the G.P. for Co-operation, High Court of A.P., Hyderabad.(OUT)

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